

Decision 06-09-033 September 21, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Louis Francis Russo,

Complainant,

vs.

AT&T Communications of California, Inc.,

Defendant.

(ECP)
Case 06-06-006
(Filed June 6, 2006)

Louis Francis Russo, for himself, Complainant.
Sherry Winbush, for Defendant.

OPINION GRANTING RELIEF

Louis Francis Russo (complainant) disputes local toll charges of \$383.28 for direct dial calls made from complainant's AT&T Communications of California, Inc., (AT&T) telephone account to his internet service provider (ISP) account using access dial-up numbers 619-331-0023 and 619-664-4267. He alleges that he had no knowledge that those access lines were local toll calls as they were in his local calling area and he could not conveniently and reliably determine their nature. Defendant asserts that given that the local toll numbers in question were directly dialed from the customer's home telephone account and correctly routed over the AT&T network, relief should be denied.

Public hearing was held July 14, 2006. The issue of local toll calls being mistaken for local calls is not new. We have recently considered it in

Higginbotham v. PacBell, D.02-08-069, where we ruled for the complainant, as we later did in *Byrnes v. PacBell*, D.02-11-060. In *Byrnes*, we said:

“In Decision (D.) 02-08-069 in Case (C.) 01-03-028 *et al.*, we considered these problems in relation to Pacific Bell and found that in regard to obtaining local toll information ‘ . . .contacting the ‘O’ operator increases the possibility of error and is less convenient.’ (Finding of Fact 10.) And ‘substituting a less accurate and less convenient means of obtaining local toll pricing information is unreasonable.’ (Finding of Fact 11.) (D.02-08-069 at 14.) We concluded that Pacific Bell had failed to provide just and reasonable service in violation of Pub. Util. Code § 451 (D.02-08-069 at 15) and that it should not be permitted to take advantage of its own wrong. (D.02-08-069 at 10, citing Civil Code § 3517.)

“In D.02-08-069, we cancelled the local toll charges in dispute. Based on D.02-08-069, we cancel the \$585.38 charge and institute the more reasonable charge of \$56.94.” (D.02-11-060, *mimeo.* p. 6, *see also*, *Ferreri v. Verizon* (D.02-08-066).)

Complainant is entitled to have the \$383.28 charge canceled.

Assignment of Proceeding

Rachelle B. Chong is the Assigned Commissioner and Robert Barnett is the assigned Administrative Law Judge in this proceeding.

O R D E R

IT IS ORDERED that:

1. AT&T Communications of California, Inc., defendant shall cancel the charge of \$383.28 on complainant’s bill.

2. Case 06-06-006 is closed.

This order is effective today.

Dated September 21, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners